

**OPINION
42-49**

December 5, 1942 (OPINION)

ELECTIONS

RE: Cities - Candidates Who May Be

Your letter of December fifth addressed to the attorney general has been received and referred to the undersigned for attention.

You state that the mayor and one of the city aldermen of Sykeston have moved away and the city is having a special election next Tuesday to fill the vacancies. One of the present aldermen is a candidate for mayor, but he has not resigned from the council. You ask whether or not he may legally be a candidate for mayor without resigning as alderman.

There is no law which would prohibit an alderman from being a candidate for mayor. However, if this alderman from being a candidate for mayor. However, if this alderman should be elected mayor, he would, of course, have to resign as alderman, in which case, a vacancy would be created. As there are more than six months until the next election, another special election would have to be called to fill the resulting vacancies. It would seem that, as a practical matter, the alderman who is a candidate for mayor should resign although, as I have pointed out, there is no law requiring him to do so.

ALVIN C. STRUTZ
Attorney General